C.   REMARKS

Status of the Claims

Claims 1, 3-8, 10-14, and 16-20 are currently present in the Application, and claims 1, 8, and 14 are independent claims. Claims 1, 8, and 14 have been amended, claims 2, 9, and 15 have been cancelled, and no claims have been added.

Examiner Interview

Applicants wish to thank the Examiner and the Primary Examiner for the courtesy extended to Applicants' attorney during a telephone interview on Tuesday, June 6, 2006. During the interview, Applicants' attorney discussed the cited prior art, in particular the Soat reference, with regard to Applicants' independent claims. Applicants' attorney noted that Soat merely reports on the effects of a layoff, after the layoff had taken place. Soat does not teach or suggest choosing a surplus group of employee data records by receiving and using a surplus percentage to select a number of employee data records. The Examiner suggested amending the independent claims to make it clear that sorting the employee data records by the evaluations results in a list of sorted employee data records with a high end and a low end. Applicants have made such amendments in this Response. No agreement was reached on the claims during the interview.

Drawings

Applicants wish to thank the Examiner for accepting Applicants' formal drawings, filed with the Application on January 8, 2002.

Double Patenting

Claims 1-20 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-2, 4-9, 11-15, and 17-20 of co-pending Application No. 10/042,416. Applicants have included a terminal disclaimer with this Response, and therefore respectfully request that the Examiner withdraw the double patenting rejection.

Claim Rejections - Alleged Anticipation Under 35 U.S.C. § 102

Claims 1, 3-6, 8, 10-12, 14, and 16-19 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Office of Personnel Management (OPM), Restructuring Information Handbook Module 3, Reduction in Force, June 1998 (hereinafter OPM). Applicants respectfully traverse the rejections under 35 U.S.C. § 102.

Applicants have amended independent claim 1 to include limitations previously found in dependent claim 2, and have thus cancelled claim 2. Similarly, Applicants have amended independent claims 8 and 14 to include limitations previously found in dependent claims 9 and 15, respectively, and have thus cancelled claims 9 and 15. Based on these amendments, Applicants respectfully submit that the rejections under 35 U.S.C. § 102 are now moot, and Applicants respectfully request that the Examiner withdraw the rejections under 35 U.S.C. § 102.

Claim Rejections – Alleged Obviousness Under 35 U.S.C. § 103

Claims 2, 9, and 15 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over OPM in view of "IT Confidential" by John Soat, InformationWeek, July 9, 2001 (hereinafter Soat). Claims 7, 13, and 20 stand rejected under 35 U.S.C. § 103(a) as

being unpatentable over OPM. Applicants respectfully traverse the rejections under 35 U.S.C. § 103.

As noted above, Applicants have amended independent claim 1 to include limitations previously found in dependent claim 2, and have thus cancelled claim 2. Similarly, Applicants have amended independent claims 8 and 14 to include limitations previously found in dependent claims 9 and 15, respectively, and have thus cancelled claims 9 and 15. Therefore, Applicants will discuss amended, independent claims 1, 8, and 14 with regard to the OPM and Soat references (Soat being used to reject claims 2, 9, and 15 as filed).

OPM is a handbook used by the U.S. Office of Personnel Management in order to provide guidelines and information for reduction in force procedures. Soat is an article that appears to deliver news regarding the IT industry. Applicants respectfully submit that neither OPM nor Soat, nor a combination of the two, teaches or suggests all the elements of Applicants' independent claims, as amended.

Applicants teach and claim a method, information handling system, and computer program product for analyzing resources for a reduction action. Using amended, independent claim 1 as an exemplary claim, Applicants' independent claims include the following elements:

- identifying a skill group that includes surplus human resources;
- selecting one or more employees data records corresponding to the identified skill group;
- analyzing evaluations corresponding to the selected employee data records; and

- choosing a surplus group of employee data records from the selected employee data records based on the analysis, wherein the choosing includes:
    o sorting the selected employee data records by the evaluations, the sorting resulting in a list of sorted employee data records with a high end and a low end;
    o receiving a surplus percentage corresponding to the skill group; and
    o selecting a number of the sorted employee data records by applying the surplus percentage to the low end of the list of sorted employee data records.

The prior art does not teach many of the elements of Applicants' independent claims. For example, the Examiner admits that OPM does not disclose using a percentage to determine a surplus number of employees, and indeed OPM does not. However, the Examiner cites Soat at paragraphs 4-5 as teaching this aspect of Applicants' claims. Applicants respectfully disagree. Soat merely notes that a company laid off about 400 people, which happened to be about 9% of that company's workforce. Note that Soat is reporting about the effects of a layoff, after the layoff has taken place. Soat does not disclose anything regarding how the company decided which employees to lay off.

In particular, neither OPM nor Soat teaches or suggests "receiving a surplus percentage corresponding to the skill group," where the skill group is an identified skill group that includes surplus human resources. Simply taking note, after the fact, of the percentage of employees that were laid off, is not the same as receiving a surplus percentage that corresponds to an identified skill group that currently includes surplus human

resources. Applicants respectfully submit that the cited prior art does not teach or suggest "receiving a surplus percentage corresponding to the skill group," as taught and claimed by Applicants in independent claims 1, 8, and 14.

Applicants further submit that neither OPM nor Soat teaches or suggests "selecting a number of the sorted employee data records by applying the surplus percentage to the low end of the list of sorted employee data records," as taught and claimed by Applicants. Neither OPM nor Soat discloses a "surplus percentage," and so neither can possibly be said to **_apply the surplus percentage_** to the low end of the sorted employee data records, in order to determine a number of the sorted employee data records to select. As discussed above, Soat is merely reporting about the effects of a layoff, **_after_** the layoff has taken place. Soat says nothing about applying a surplus percentage in order to determine which employee data records to select as a surplus group. Therefore, neither Soat nor OPM discloses "**_selecting_** a number of the sorted employee data records **_by applying the surplus percentage_** to the low end of the list of sorted employee data records," as taught and claimed by Applicants in independent claims 1, 8, and 14.

Based on the above, Applicants respectfully submit that independent claims 1, 8, and 14, and the claims which depend from them, are patentable over OPM in view of Soat, and respectfully request that they be issued.

Claim 3 depends from independent claim 1 and is patentable for at least the reasons discussed above. Similarly, claim 16 depends from independent claim 14 and is also patentable for at least the reasons discussed above. Notwithstanding the patentability of claims 3 and 16 based on the above discussion, Applicants would like to further discuss these claims.

Applicants note that claims 3 and 16 add the element that "the skill group includes a skill level." For example, a skill group may be a programmer group, and a skill level may include a junior programmer designation. The Examiner cites OPM at page 11, section 5 as disclosing the elements of Applicants' claims 3 and 16 (see Office Action, page 5, line 19 through page 6, line 6). Applicants note that the elements the Examiner discusses in this section of the Office Action are NOT the elements found in claims 3 and 16. There appears to be a typographical error in the Office Action with regard to claims 3 and 16. Furthermore, Applicants do not find anything in OPM that discusses a skill group including a skill level, as taught and claimed by Applicants. Applicants respectfully submit that none of the prior art, either alone or in combination, teaches or suggests that "the skill group includes a skill level," as taught and claimed by Applicants in claims 3 and 16. Therefore, Applicants respectfully submit that claims 3 and 16 are patentable over the prior art, and respectfully request that they be allowed.

Claim 4 depends from independent claim 1 and is patentable for at least the reasons discussed above. Similarly, claims 10 and 17 depend from independent claims 8 and 14, respectively, and are also patentable for at least the reasons discussed above. Notwithstanding the patentability of claims 4, 10, and 17, Applicants would like to further discuss these claims. Using claim 4 as an exemplary claim, claims 4, 10, and 17 include the following additional elements:

- identifying an employee corresponding to one of the employee data records to evaluate;

- retrieving an evaluation template from a plurality of evaluation templates corresponding to the identified employee's skill group;

- evaluating the identified employee using the retrieved evaluation template; and

- storing the identified employee's evaluation in a data store stored on a nonvolatile storage area.

The Examiner cites OPM at page 11, section 5, page 12, section 6, and page 10, section f as disclosing these elements of Applicants' claims (see Office Action, page 6, lines 7-20). Once again, Applicants note that the elements discussed in this section of the Office Action are NOT the elements found in Applicants' claims 4, 10, and 17. It appears that there is another typographical error in the Office Action.

Applicants further submit that none of the prior art, either alone or in combination, discloses anything having to do with "retrieving an evaluation template," "evaluating the identified employee using the retrieved evaluation template," and then "storing the identified employee's evaluation in a data store," as taught and claimed by Applicants in claims 4, 10, and 17. The sections of OPM cited by the Examiner have to do with grouping interchangeable positions into competitive levels based upon similarity of grade, series, qualifications, duties, and work tour, listing employees on a retention register in order of standing, and the possibility of reassigning an employee to another position. The Examiner has not provided any citations to any prior art that discloses evaluation templates, or anything related to the elements found in claims 4, 10, and 17. Therefore, Applicants respectfully submit that claims 4, 10, and

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17 are patentable over the prior art, and respectfully request that they be allowed.

Conclusion

As a result of the foregoing, it is asserted by Applicants that the remaining claims in the Application are in condition for allowance, and Applicants respectfully request an early allowance of such claims.

Applicants respectfully request that the Examiner contact the Applicants' attorney listed below if the Examiner believes that such a discussion would be helpful in resolving any remaining questions or issues related to this Application.

Respectfully submitted,

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